

1
2 BILL NO. G-91-03-29

3
4 GENERAL ORDINANCE NO. _____

5 AN ORDINANCE OF THE COMMON COUNCIL OF
6 THE CITY OF FORT WAYNE, INDIANA SETTING
7 FORTH POLICIES, PROCEDURES, REPORTS AND
8 PENALTIES IN REGARD TO GRANTING TAX
9 ABATEMENTS.

10 WHEREAS, the City of Fort Wayne, Indiana through the
11 Common Council is authorized by I.C. 6-1.1-12.1 et. seq. of
12 the Indiana Code to designate and approve Economic
13 Revitalization Areas, and to review and approve Statement of
14 Benefits for real and personal property tax abatements
15 within designated Economic Revitalization Areas; and

16 WHEREAS, the intent of the aforementioned statute is to
17 encourage investment by new and existing businesses, which
18 would not occur without the benefit of tax abatements on the
19 increased assessed value of the investment; and

20 WHEREAS, to accurately meet the intent of said statute,
21 the granting of tax abatements should be made in accordance
22 with a strict interpretation of the definition of "Economic
23 Revitalization Area" as set forth in I.C. 6-1.1-12.1-1 (1);
24 and

25 WHEREAS, it is the intent of the aforementioned statute
26 to encourage job retention and expansion as a public benefit
27 resulting from tax abatements; and

28 WHEREAS, the aforementioned statute requires that the
29 Common Council, pursuant to I.C. 6-1.1-12.1-3 and
30 I.C. 6-1.1-12.1-4.5, in addition to reviewing the Statement
31 of Benefits form, must find in the affirmative that certain
32 requirements in the statute are met by applicants for
Economic Revitalization Areas and for approval of Statement
of Benefits; and

WHEREAS, the Common Council is hampered by the lack of
a uniform and consistent method for gathering information
prior to making affirmative findings as required by the
aforementioned statute; and

WHEREAS, although I.C. 6-1.1-12.1-5 establishes the
requirements on applications for a deduction under the terms
of I.C. 6-1.1-12.1, et seq., certain supplemental
information should be required by the City of Fort Wayne on
such applications to assist the Common Council of the City
of Fort Wayne in gathering sufficient information to make
said findings; and

WHEREAS, there is currently no procedure for the Common
Council to monitor the performance of companies receiving
property tax abatements in compliance with their Statement
of Benefits; and

WHEREAS, it is the responsibility of the Common Council
of the City of Fort Wayne, Indiana to protect and maintain
the City tax base for the common good of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. Chapter 11 of the Municipal Code of the City of Fort Wayne, Indiana entitled "Finance and Taxation" is hereby amended to include the following language:

"DIVISION 2. ABATEMENTS

Sec. 11-4. DEFINITIONS: The following terms shall have the prescribed meanings in this Ordinance:

- a). "Applicant" shall mean an individual, partnership, corporation, or any other form of business organization that is a property owner, which may make application under I. C. 6-1.1-12.1 et. seq. and this Ordinance.
- b). "Council" shall mean the Common Council of the City of Fort Wayne, Indiana.
- c). "Economic Revitalization Area" shall be defined by I.C. 6-1.1-12.1 et seq.
- d). "Person" shall mean any individual, firm, partnership, association, corporation, company or organization of any kind who has been granted a deduction under this ordinance.
- e). "Temporary Jobs" shall mean jobs directly resulting from the proposed project including construction, mechanical and maintenance, that are not anticipated to exist beyond the duration of the project.

Sec. 11-5. ADVANCE NOTICE OF INTENT TO APPLY FOR TAX ABATEMENT. Upon receipt of an application for a deduction pursuant to I.C. 6-1.1-12.1 et seq., the department of the City of Fort Wayne receiving said application shall mail a copy of said application to the labor union representing the existing employees of the applicant.

Sec. 11-6. APPLICATION. All applicants applying for designation of an Economic Revitalization Area or approval of a Statement of Benefits pursuant to I. C. 6-1.1-12.1 et. seq. shall provide to the Common Council and to the Mayor's Office of Community and Economic Development, the following supplemental information, on forms which shall be prescribed by the Common Council:

- 1). The name, address, and telephone number of the applicant and any parent company.
- 2). The state of incorporation of the applicant and any parent company.
- 3). The names and titles of the officers and directors of the applicant and any parent company.
- 4). The name of each person who holds at least five percent (5%) of the outstanding shares of stock of the applicant and any parent company.
- 5). A list of all divisions, subsidiaries, and facilities of any parent company.
- 6). A financial statement for both the applicant and any parent company for each of the preceding three (3) years prepared by a certified public accountant in accordance with sound accounting practices, including the applicant's and parent company's:
 - A). volume of sales;
 - B). operating profit;
 - C). book of value of plant, land and equipment;
 - D). net capital investments;
 - E). net assets; and
 - F). capacity utilization.

1 7). A list of all public subsidiaries received by the
2 applicant or the applicant's parent company during the
3 preceding ten (10) years of the facility for which a
4 deduction is sought, or for any other facility that is
owned by the applicant or the applicant's parent
company and is located in Indiana. The list must
include the following:

5 A). The type of subsidy received (such as
property tax deductions, industrial revenue bonds,
6 urban development action grants, and job training
and partnership action funds).

7 B). The amount of the subsidy.

8 C). The term of the subsidy.

9 D). The public benefit that was promised when the
subsidy was applied for (such as infrastructure
improvements or estimated created or retention of
jobs, wages, and fringe benefits).

10 E). The current number of jobs, including wages
and fringe benefits created or retained as a
result of the subsidy.

11 8). A description of the construction jobs resulting
12 from the proposed redevelopment, rehabilitation, or
installation of new manufacturing equipment, including
the following:

13 A). The estimated number and length of tenure of
the construction jobs.

14 B). The estimated total number of the
construction jobs that will be held by Fort Wayne
15 residents.

16 C). The name, address, and telephone number of
each contractor, subcontractor, and construction
manager.

17 D). The estimated wages and cost of fringe
benefits to be provided to the construction
18 employees.

19 E). The estimated total number of the
construction jobs that will be held by residents
of other cities.

20 9). A description of the permanent jobs resulting from
21 the proposed development, rehabilitation, or
installation of new manufacturing equipment, including
the following:

22 A). The number and category of full-time and
part-time employees who are employed by the
23 facility.

24 B). The estimated number and category of full-
time and part-time employees who will be employed
by the facility after the redevelopment,
25 rehabilitation, or installation of new
manufacturing equipment is completed.

26 C). The estimated total number of Fort Wayne
residents to be hired by the facility as a result
of the redevelopment, rehabilitation, or
27 installation of new manufacturing equipment.

28 D). The estimated total number of residents of
other cities to be hired by the facility as a
result of the redevelopment, rehabilitation, or
29 installation of new manufacturing equipment.

30 E). The anticipated date for hiring to begin.

31 F). Quarterly hiring projections from project
completion date until hiring completion date.

32 10). A description of the jobs that will be lost
temporarily as a result of the proposed redevelopment
rehabilitation, or installation of new manufacturing
equipment, including the following:

A). The estimated number of jobs that will be
lost.

B). The titles and occupational skill levels of
those jobs.

C). The wages and fringe benefits of those jobs.

D). The estimated duration of the period for which those jobs will be lost.

11). A description of the jobs that will be lost permanently as a result of the proposed redevelopment, rehabilitation, or installation of new manufacturing equipment, including the following:

A). The estimated number of jobs that will be lost.

B). The titles and occupational skill levels of those jobs.

C). The wages and fringe benefits of those jobs.

12). A description of the jobs that will be temporarily or permanently restructured, reclassified, or reassigned as a result of the proposed redevelopment, rehabilitation, or installation of new manufacturing equipment, including the following:

A). The length of tenure and estimated number of jobs that will be restructured, reclassified, or reassigned.

B). The titles and occupation skill level of those jobs.

C). The wages and fringe benefits of those jobs.

13). An affirmative action plan setting forth goals for the hiring, training, and advancement of minority and female workers (temporary and permanent) through active recruitment from the local labor market, in a proportion at least equal to the percentage of minorities and females in the local population, in such cases as the applicant employs over twenty-five (25) employees. Those applicants employing less than twenty-five (25) employees shall submit a copy of the most current Equal Employment Opportunity Plan (EEO) for the hiring, training and upgrading of minority and women workers, temporary or permanent, involved in the project. This plan should address ways and means to provide employee minority mix equal to or greater than the percentage of minorities and women in the local population. These goals must be met to the extent possible through active recruitment from the available local labor market.

Sec. 11-7. NOTIFICATION OF EMPLOYEES. Notification of application for Economic Revitalization Area and/or approval of Statement of Benefits shall be provided by the applicant to any and all collective bargaining representative(s) at the site of the proposed project. If no collective bargaining representative(s) exist, notification of application for Economic Revitalization Area and/or approval of Statement of Benefits shall be posted in a conspicuous place at the current site of the applicant's employees. A copy of the notice provided employees and an affidavit of posting must be included with all applications for Economic Revitalization Area or approval of Statement of Benefits.

Sec. 11-8. COMPLIANCE WITH THE APPLICATION REQUIREMENTS. No application for deductions under the terms of I.C. 6-1.1-12.1 et seq. which does not contain the information required by I.C. 6-1.1-12.1-5(c) or 6-1.1-12.1-5.5(b) and the supplementary information required by Sec. 11-6 of this ordinance shall be submitted to the Common Council for its action.

Sec. 11-9. ANNUAL REPORTS REQUIRED. A). In addition to the requirements of I.C. 6-1.1-12.1 et seq., the property owner shall file an annual performance report with the Common Council of the City of Fort Wayne and to the Office of Contract Compliance of the City of Fort Wayne before April 1 of each year in which the deduction is applicable. The report must include the following information:

1) The number, category, race, and sex of employees hired through the end of the preceding calendar year as a result of the deduction.

2) Comparisons of the information set forth in subdivision (1) to the projected job creation, hiring, and affirmative action figures for the same calendar year in the property owner's statement of benefits. These comparisons shall be expressed as a percentage of performance.

3) If the percentage of performance in an area covered by subdivision (2) is less than eighty percent (80%), a detailed written explanation of the reasons for failure to achieve the level of performance projected in the statement of benefits.,

B). The following provisions apply if a property owner fails to file a completed performance report before April 1:

1) The property owner's deduction under this chapter is terminated and does not apply to the next installment of property taxes owned by the property owner or to any subsequent installments of property taxes.

2) The County Auditor shall mail a notice of the deduction's termination to the:

A). property owner;

B). County Treasurer; and

C). State Board of Tax Commissioners, if the deduction was granted under this ordinance.

3) The county auditor shall remove the deduction from the tax duplicate.

4) If the deduction is terminated after the county treasurer has mailed the statement required by I.C. 6-1.1-1.22-8, the county treasurer shall immediately mail to the property owner a revised statement that reflects the termination of the deduction.

Sec. 11-10. PREVAILING WAGE REQUIRED FOR CONSTRUCTION WORK. All building and construction projects receiving tax abatements shall be built by contractors paying the prevailing wage as determined by the most current Indiana Department of Labor, Wage and Hour Division, Area Wage Survey.

Sec. 11-11. PREVAILING WAGE REQUIRED FOR NEW EMPLOYMENT. Tax abatements shall be granted for the purpose of, and only to those applicants, creating full-time jobs at or above the prevailing wage for those job classifications as determined by the most current U. S. Department of Labor Statistics, Area Wage Survey.

Sec. 11-12. EMPLOYEE HEALTH/MEDICAL INSURANCE AVAILABILITY REQUIRED. No tax abatement shall be granted to applicants who do not make reasonable health/medical insurance available as a benefit to their employees at a reasonable cost. Reasonable cost is defined as a policy provided at no more than fifteen percent (15%) of each employee's monthly net take-home pay for family coverage.

Sec. 11-13. RELOCATION OF EXISTING JOBS PROHIBITED. No abatement shall be granted for the relocation of existing employment opportunities within the corporate limits of the City of Fort Wayne unless all existing employees are given the right to transfer. No abatement shall be granted for the relocation of existing jobs from outside the corporate limits of the City of Fort Wayne.

Sec. 11-15. TERMINATION OF DEDUCTION.

A). The Common Council may adopt a resolution terminating a property owner's deduction if it determines that:

- 1). the property owner has failed to meet job creation projections or other commitments made to the Common Council at the time the deduction was approved;
- 2). the property owner has or intends to substantially reduce or cease operations at the facility for which the deduction was approved;
- 3). the property owner has moved equipment for which a deduction was granted under this ordinance to a location outside the economic revitalization area; or
- 4). the property owner has failed to meet the development or rehabilitation objectives of the city.

B). If the Common Council adopts a resolution described in this section, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

C). If the Common Council adopts a resolution described in subsection (A), the Common Council shall immediately mail a certified copy of the resolution to the:

- 1). property owner;
- 2). County Auditor; and
- 3). the State Board of Tax Commissioners, if the deduction was granted under the terms of this ordinance.

The County Auditor shall remove the deduction from the tax duplicate and shall notify the County Treasurer of the termination of the deduction. If the Common Council's resolution is adopted after the County Treasurer has mailed the statement required by I.C. 6-1.1-22-8, the County Treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

D). A property owner whose deduction is terminated by the Common Council under this section may appeal the Common Council's decision by filing a complaint in the office of the clerk of the Allen Circuit or Allen Superior Court, together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the action of the Common Council or sustain the appeal. The judgement of the court is final and conclusive, unless an appeal is taken as in other civil actions.

E). If an appeal under subsection (D) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

Sec. 11-15. RECOVERY OF LOST TAX REVENUE. If the Common Council terminates a deduction under Section 11-14 of this ordinance, the Common Council may file a legal action in the Circuit or Superior Court of Allen County to recover property tax revenue lost by the City of Fort Wayne as a result of the deduction, plus any damages and court costs that may be awarded.

Sec. 11-16. RECAPTURING LOST TAX REVENUE.

A). As used in this section, "postdeduction period" means a period of years that:

- 1) begins on the date upon which a deduction expires; and
- 2) is equal to the period of years for which the deduction was originally granted.

B). This section does not apply to:

- 1). a property owner whose statement of benefits was approved before July 1, 1991.

C). If:

- 1). a property owner transfers employees of a facility for which a deduction was granted under this ordinance to a facility located outside the jurisdiction of the Common Council; and

- 2). the percentage of employees transferred exceeds fifty percent (50%) during the postdeduction period:

the property owner shall pay an amount determined under subsection (D) to the Controller of the City of Fort Wayne, for deposit in the City of Fort Wayne's general fund

D). The amount to be paid by a property owner under subsection (C) is determined as follows:

STEP ONE: Determine the portion of the postdeduction period that has not expired (expressed in years).

STEP TWO: Beginning with the date upon which the deduction was granted, determine the amount of property tax revenue lost as a result of the deduction during a period equal to the amount of years determined under STEP ONE.

E). If a property owner who is liable for a payment under subsection (C) fails to make that payment, the Common Council may bring a legal action to recover that payment in the manner provided by Section 11-15 of this ordinance.

Sec. 11-17. PENALTIES.

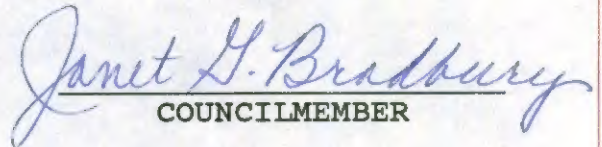
A). Any person who falsifies information, on an annual report as required by this Ordinance, may be fined in the amount of one thousand dollars (\$1,000).

B). Any person who knowingly or willfully fails to pay the rate of wages required to be paid under this chapter shall be fined not less than one thousand dollars (\$1000.00) for each violation for each day that the violation is permitted to continue. Any person who is determined by the Office of Contract Compliance of the City of Fort Wayne to have committed more than two (2) violations of this chapter in any calendar year shall be prohibited from submitting any bid for any public work required by the City of Fort Wayne for a period of one hundred eighty (180) days from the date of the second violation in that year.

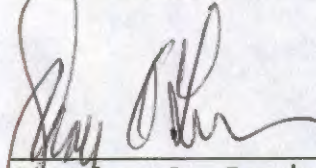
SECTION 2. SEVERABILITY. If any provision or term of this chapter, or any application thereof, is held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

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SECTION 3. This Ordinance shall be in full force and effect from its passage and any and all necessary approval by the mayor and its legal publication thereof.


COUNCILMEMBER

APPROVED AS TO FORM
AND LEGALITY.



Stanley A. Levine
Legal Advisor
Fort Wayne Common Council

Read the first time in full and on motion by _____,
and duly adopted, read the second time by title and referred to the Committee on _____,
(and the City Plan Commission for recommendation)
and Public Hearing to be held after due legal notice, at the Common Council Conference
Room 128, City-County Building, Fort Wayne, Indiana, on _____,
the _____ day of _____, 19____, at _____
o'clock _____ M., E.S.T.

DATED: _____
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	_____	_____	_____	_____
BENDER	_____	_____	_____	_____
CRAWFORD	_____	_____	_____	_____
EDMONDS	_____	_____	_____	_____
HALL	_____	_____	_____	_____
HAYHURST	_____	_____	_____	_____
HENRY	_____	_____	_____	_____
LUNSEY	_____	_____	_____	_____
RAVINE	_____	_____	_____	_____
SCHMIDT	_____	_____	_____	_____

DATED: _____
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)
(ZONING) ORDINANCE RESOLUTION NO. _____
on the _____ day of _____, 19____

ATTEST: SEAL

SANDRA E. KENNEDY, CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the
_____ day of _____, 19____,
at the hour of _____, o'clock _____, M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day
of _____, 19____, at the hour of _____
o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

Read the first time in full and on motion by Bradbury, seconded by Long, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 3-26-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage.
PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>REDD</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19____

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19____, at the hour of _____ o'clock _____ M., E.S.T.

PAUL HELMKE, MAYOR

BILL NO. G-91-03-29

*Filed
4-2-91*

REPORT OF THE COMMITTEE ON FINANCE

MARK E. GIAQUINTA, CHAIRMAN
DONALD J. SCHMIDT, VICE CHAIRMAN
BRADBURY, REDD, BURNS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) of the Common Council
of the City of Fort Wayne, Indiana setting forth policies,
procedures, reports and penalties in regard to granting
tax abatements

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>

DATED:

Sandra E. Kennedy
City Clerk